

Exhibit 36

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF DELAWARE
4 -----x
5 MAGTEN ASSET MANAGEMENT CORPORATION and
6 LAW DEBENTURE TRUST COMPANY OF NEW YORK,
7 Plaintiffs,

8 vs.
9 NORTHWESTERN CORPORATION,
10 Defendant.

11 Civil Action No. C.A. No. 04-1494 (JJF)
12 -----x
13 MAGTEN ASSET MANAGEMENT CORP.,
14 Plaintiff

15 v.
16 MICHAEL J. HANSON and ERNIE J. KINDT,
17 Defendants
18 Civil Action No. C.S. No. 05-499 (JJF)
19 -----
20 July 12, 2007
21 9:30 a.m.
22 CONFIDENTIAL -- ATTORNEYS' EYES ONLY
23 Deposition of TALTON R. EMBRY,
held at the offices of Curtis,
24 Mallet-Prevost, Colt & Mosle, 101 Park
Avenue, New York, New York, before David
Henry, a Certified Shorthand Reporter and
Notary Public of the State of New York.

<p>1 2 Partnership?</p> <p>3 A. It is not.</p> <p>4 Q. With respect to Magten Asset</p> <p>5 Management International Corporation, did</p> <p>6 you ever buy any of the QUIP's at issue in</p> <p>7 this litigation for the benefit of that</p> <p>8 company?</p> <p>9 A. Not that I recall.</p> <p>10 Q. How about Magten Recovery</p> <p>11 Associates?</p> <p>12 A. I am unfamiliar with Magten</p> <p>13 Recovery Associates.</p> <p>14 Q. That is not a company that you</p> <p>15 established?</p> <p>16 A. Not that I am aware of.</p> <p>17 Q. How about Magten Recovery Fund?</p> <p>18 A. Not that I am aware of.</p> <p>19 Q. When did you first acquire the</p> <p>20 QUIP's?</p> <p>21 A. I believe my first purchases were</p> <p>22 approximately in April of 2003.</p> <p>23 Q. How did you come to learn of the</p> <p>24 existence of the QUIP's as a potential</p> <p>25 investment?</p>	<p>1 2 Q. And do you remember which one you</p> <p>3 used for the first acquisition?</p> <p>4 A. I do not.</p> <p>5 Q. What do you remember learning in</p> <p>6 that April, May, 2003 time period about</p> <p>7 Northwestern that led you to buy the</p> <p>8 QUIP's?</p> <p>9 A. I can't remember specifically.</p> <p>10 Q. Do you remember generally</p> <p>11 anything?</p> <p>12 A. It's been a long time.</p> <p>13 Q. Did you know at that time that</p> <p>14 Northwestern had restated its financial</p> <p>15 statements for 2002?</p> <p>16 MS. STEINGART: Object as to</p> <p>17 form.</p> <p>18 A. That was in the public record,</p> <p>19 yes.</p> <p>20 Q. And then we're talking about the</p> <p>21 period immediately before the first</p> <p>22 purchase of QUIP's by Magten?</p> <p>23 A. I believe that's correct.</p> <p>24 Q. At that time had you looked at</p> <p>25 the restated financials of Northwestern?</p>
<p>1 2 A. Through the news media.</p> <p>3 Q. Do you remember specifically what</p> <p>4 news media?</p> <p>5 A. I do not.</p> <p>6 Q. Were you ever advised or was</p> <p>7 there a recommendation made with respect to</p> <p>8 the QUIP's at that time by any broker with</p> <p>9 whom you might have a relationship?</p> <p>10 MS. STEINGART: Object as to</p> <p>11 form. Are you asking if the broker</p> <p>12 spoke to him about it?</p> <p>13 Q. Do you understand the question,</p> <p>14 Mr. Embry?</p> <p>15 A. I saw information from Wall</p> <p>16 Street on the company. I am not aware of</p> <p>17 on the QUIP's in particular.</p> <p>18 Q. And did you buy the QUIP's on the</p> <p>19 open market?</p> <p>20 A. I did.</p> <p>21 Q. Did you use a brokerage house to</p> <p>22 buy those QUIP's?</p> <p>23 A. Yes.</p> <p>24 Q. And which brokerage?</p> <p>25 A. A variety, I believe.</p>	<p>1 2 A. To the best of my knowledge, I</p> <p>3 had.</p> <p>4 Q. Do you remember anything from</p> <p>5 those restated financials?</p> <p>6 A. Not in specifics, no.</p> <p>7 Q. Given that the financials were</p> <p>8 restated and you had the opportunity to and</p> <p>9 did review them, what made you think that</p> <p>10 the purchase of the QUIP's from</p> <p>11 Northwestern at that time would make money</p> <p>12 for your clients? And I think that's the</p> <p>13 word you used earlier.</p> <p>14 MS. STEINGART: Objection as to</p> <p>15 form.</p> <p>16 A. To the best of my recollection</p> <p>17 they were selling at a discounted price and</p> <p>18 I thought that the discount was sufficient</p> <p>19 to make them sufficiently attractive.</p> <p>20 Q. At that time did you have any</p> <p>21 concerns that Northwestern might file for</p> <p>22 reorganization in bankruptcy?</p> <p>23 A. I did not know what the company</p> <p>24 was going to do.</p> <p>25 Q. Well, I know that you didn't know</p>

<p style="text-align: right;">Page 18</p> <p>1 what they were going to, but did you have 2 any concerns that that might be a direction 3 in which the company might ultimately be 4 headed? 5 A. I can't recall. 6 Q. Did you at the time that you 7 first acquired the QUIP's know anything 8 about Northwestern Liability Limited 9 Company? 10 A. Not that I am aware of. 11 Q. Do you know today what 12 Northwestern Energy, LLC is or was? 13 A. I do not. 14 Q. At the time that you first bought 15 the QUIP's, did you make any inquiry about 16 the historic performance of Montana Power 17 Company? 18 A. I reviewed the financial 19 information that was available. 20 Q. And when you say financial 21 information that was available, from what 22 sources? 23 A. From the public documents that 24 were filed by the company, 10-Q's and</p>	<p style="text-align: right;">Page 20</p> <p>1 reviewed them, but I do not recall those 2 with any specificity. 3 Q. Do you recall if you had reviewed 4 an 8K from December of 2002 in which the 5 company issued a press release? 6 A. I don't recall it. 7 Q. Would it refresh your memory if I 8 told that you that that 8K generally stated 9 that the company might have to restate its 10 financials for 2002 and that it was looking 11 into the matter? 12 A. It would not refresh my memory. 13 Q. At the time before you first 14 acquired the -- any of the QUIP's, did you 15 review the unit purchase agreement between 16 Montana Power Company and Northwestern 17 Corporation for the acquisition of Montana 18 Power Limited Liability Company? 19 A. I don't recall. 20 Q. At the time that you first 21 acquired the QUIP's, did you look at the 22 asset transfer agreement between 23 Northwestern Corporation and Northwestern 24 Energy for the transfer of certain assets</p>
<p style="text-align: right;">Page 19</p> <p>1 10-K's. 2 Q. When you say company, are you 3 talking about Montana Power Company? 4 A. Northwestern. 5 Q. And do you recall which K's and 6 Q's you have looked at, over what time 7 period would they have covered? 8 MS. STEINGART: Objection as to 9 form. 10 A. To the best of my recollection, 11 it would have been the 2002 10-Q's and 2001 12 10-K. 13 Q. So prior to buying the QUIP's, 14 you did review the first quarter 2002? 15 A. To the best of my recollection. 16 Q. And same with the second quarter? 17 A. To the best of my recollection. 18 Q. And the third quarter? 19 A. To the best of my recollection. 20 Q. And then you reviewed the 21 restated financials that were issued in 22 April of 2003? 23 A. If there were restated financials 24 issued in April of 2003, I would have</p>	<p style="text-align: right;">Page 21</p> <p>1 and liabilities from the subsidiary to the 2 parent? 3 A. I don't recall. 4 Q. At that time before you first 5 acquired QUIP's, did you look at the 6 indenture that's related to the QUIP's? 7 A. To the best of my recollection, I 8 did. 9 Q. And did you look at the First 10 Amendment to the indenture? 11 A. To the best of my recollection, I 12 did. 13 Q. The second amendment? 14 A. Best of my recollection, I did. 15 Q. And also the third? 16 A. To the best of my recollection, I 17 did. 18 Q. And did you also review at that 19 time the assumption agreement under which 20 Northwestern Corporation assumed 21 responsibility for payments related to the 22 QUIP's? 23 A. To the best of my recollection, I 24 did. 25</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. Do you know who he is? 2 A. I do. 3 Q. And who is he? 4 A. I believe that he is a member of 5 the board of Northwestern Corporation and 6 president of the company. 7 Q. Do you know what position 8 Mr. Hanson held with Northwestern 9 Corporation in 2002? 10 A. I cannot recall. 11 Q. Do you know if Mr. Hanson held 12 any positions with Northwestern Energy, LLC 13 in 2002? 14 A. Do I know that now or did I know 15 that then? 16 Q. Do you know that now? 17 A. I don't know. 18 Q. At the time when you first 19 acquired the QUIP's in 2003, did you know 20 of a Michael Hanson associated with 21 Northwestern? 22 A. Not that I can recall. 23 Q. And you've never met Mr. Hanson? 24 MS. STEINGART: Face-to-face?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. That's correct. 2 Q. And could you tell me why you 3 sued Mr. Kindt? 4 A. Mr. Kindt, to the best of my 5 knowledge, was an officer of Clark Fork, 6 and was responsible for the assets and 7 liabilities of Clark Fork and owed a duty 8 to me as an investor in Clark Fork 9 Securities. 10 Q. Were you an investor in the 11 QUIP's in 2002? And when I say you, Magten 12 on behalf of its clients. 13 A. No. 14 Q. And do you have a different 15 reason for why you named Mr. Hanson as a 16 defendant in this lawsuit, different than 17 the reason you gave me with respect to 18 Mr. Kindt? 19 A. Not that I am aware of. 20 (Embry 1, Magten 14-16, marked for 21 identification.) 22 Q. I've handed you what has been 23 marked as Embry deposition Exhibit 24 number 1. Can you just describe for me</p>
<p style="text-align: right;">Page 39</p> <p>1 A. I've been in a room with 2 Mr. Hanson, but I don't believe that I've 3 ever met him. 4 Q. And when was that, that you were 5 in the room with him? 6 A. Several years ago at a mediation. 7 Q. Have you ever met Mr. Ernie 8 Kindt? 9 A. I have not. 10 Q. Have you ever been in the same 11 room as Mr. Kindt? 12 A. Not that I am aware of. 13 Q. In 2003 when you acquired the 14 QUIP's, did you know of Ernie Kindt? 15 A. Not that I am aware of. 16 Q. Sitting here today, what do you 17 know about Mr. Kindt in terms of his 18 employment? 19 A. Present? 20 Q. Present or historical employment, 21 either. 22 A. Nothing specific. 23 Q. You do know that you named 24 Mr. Kindt as a defendant in a lawsuit?</p>	<p style="text-align: right;">Page 41</p> <p>1 what this document or set of documents is? 2 A. This document is a Merrill Lynch 3 research piece dated 19 May, 2003 from the 4 high grade utility department, high grade 5 credit research department. 6 Q. And on the front page there is a, 7 it looks like two e-mails, and that's Bates 8 number document 00014. 9 A. Correct. 10 Q. And the e-mail at the bottom, is 11 that the e-mail from Tatyana Dobryanskaya 12 at Merrill Lynch sending that report to 13 you? 14 A. That is correct. 15 Q. And who is Megan Costello? 16 MS. STEINGART: She's one of my 17 associates. 18 MR. KALECZYC: If you would 19 like to testify, Bonnie, we'll swear 20 you in. 21 A. I can't recall. 22 Q. Now, the document that is Bates 23 numbered 15 and 16, which is the actual -- 24 the Therm Monitor report, you received that</p>

<p style="text-align: right;">Page 90</p> <p>1 answered.</p> <p>2 A. As I have testified previously, I</p> <p>3 am not a registered investment advisor.</p> <p>4 Q. Have you ever been an investment</p> <p>5 advisor?</p> <p>6 A. I have been.</p> <p>7 Q. And when was that?</p> <p>8 A. That was prior to -- I ceased to</p> <p>9 be a registered investment advisor in 2002.</p> <p>10 Q. And for how long were you a</p> <p>11 registered investment advisor?</p> <p>12 A. From 1978.</p> <p>13 Q. And did you voluntarily surrender</p> <p>14 your registration in 2002?</p> <p>15 A. I did.</p> <p>16 Q. Was that in any way in connection</p> <p>17 with the SEC action that you previously</p> <p>18 testified to?</p> <p>19 A. No. The SEC action was</p> <p>20 fulfilled, done, or signed, in 1993.</p> <p>21 Q. Were you -- I know that you</p> <p>22 currently do not hold any licenses. Did</p> <p>23 you ever hold any licenses as a securities</p> <p>24 dealer or an agent, registered rep?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. The trade date, and if you look</p> <p>2 at Deposition Exhibit 2, there is a trade</p> <p>3 date in the third column.</p> <p>4 A. Yes.</p> <p>5 Q. Is that the date of acquisition</p> <p>6 in each instance?</p> <p>7 A. That's correct.</p> <p>8 Q. Would it be fair for me to say</p> <p>9 that if I were to add up all of the</p> <p>10 purchases that were made prior to</p> <p>11 approximately September 15, 03, that that</p> <p>12 would tell me how many QUIP's were bought,</p> <p>13 at least tell me how many QUIP's were</p> <p>14 bought prior to Northwestern going into</p> <p>15 bankruptcy?</p> <p>16 A. Yes, it would.</p> <p>17 Q. And so anything after that date</p> <p>18 would be post bankruptcy and purchases?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And just so it's clear to me,</p> <p>21 does Deposition Exhibit 2 show sales of</p> <p>22 QUIP's or just purchases?</p> <p>23 A. This shows just purchases.</p> <p>24 Q. It's true though that some of</p>
<p style="text-align: right;">Page 91</p> <p>1 A. No, sir.</p> <p>2 Q. You continued to buy QUIP's after</p> <p>3 Northwestern Corporation filed for</p> <p>4 reorganization and bankruptcy in September,</p> <p>5 2003, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Of the total million plus QUIP's</p> <p>8 that you hold today, can you tell me</p> <p>9 approximately how many were purchased prior</p> <p>10 to Northwestern going into bankruptcy?</p> <p>11 A. I cannot.</p> <p>12 Q. Would looking at Embry Deposition</p> <p>13 Exhibit 2 help in any way in getting an</p> <p>14 answer to that question?</p> <p>15 A. What was the question?</p> <p>16 Q. The question was, the original</p> <p>17 question, Mr. Embry, was how many of the</p> <p>18 QUIP's were acquired prior to Northwestern</p> <p>19 filing for reorganization and bankruptcy,</p> <p>20 you said you didn't remember. I asked</p> <p>21 whether the information contained in</p> <p>22 Deposition Exhibit 2 might be helpful in</p> <p>23 being able to come to that answer.</p> <p>24 A. It did not help.</p>	<p style="text-align: right;">Page 93</p> <p>1 your clients for whom you originally bought</p> <p>2 QUIP's have sold their QUIP's some time</p> <p>3 after their purchase?</p> <p>4 MS. STEINGART: Objection as to</p> <p>5 form.</p> <p>6 A. I am aware of one small sale, and</p> <p>7 other than that I am not aware.</p> <p>8 Q. Were any of your clients for whom</p> <p>9 you acquired QUIP's part of the group of</p> <p>10 QUIP's holders who elected to take from the</p> <p>11 plan of reorganization and bankruptcy for</p> <p>12 Northwestern?</p> <p>13 MS. STEINGART: Objection as to</p> <p>14 form.</p> <p>15 A. Can you clarify that?</p> <p>16 MS. STEINGART: Are you asking</p> <p>17 whether any of them were settling</p> <p>18 QUIP's?</p> <p>19 MR. KALECZYC: Yes.</p> <p>20 A. Not that I am aware of.</p> <p>21 Q. Now, you testified earlier about</p> <p>22 your decision to buy QUIP's before</p> <p>23 Northwestern went into bankruptcy. Did</p> <p>24 your investment strategy change at all once</p>

<p style="text-align: right;">Page 94</p> <p>1 2 Northwestern had filed for bankruptcy in 3 September of 03?</p> <p>4 MS. STEINGART: Objection as to 5 form.</p> <p>6 A. Yes.</p> <p>7 Q. In what way did it change?</p> <p>8 A. Northwestern was in bankruptcy.</p> <p>9 Q. Why did you continue to buy 10 QUIP's in Northwestern after Northwestern 11 was in bankruptcy?</p> <p>12 A. I thought it was a good 13 investment.</p> <p>14 Q. And why did you think it was a 15 good investment?</p> <p>16 A. Because the company had engaged 17 in a fraud which had -- which gave rise to 18 a fraudulent conveyance claim, which the 19 securities represent a claim on.</p> <p>20 Q. Now, when you say the company 21 engaged in a fraud, what is the fraud that 22 you are referring to?</p> <p>23 A. That the company was unable to -- 24 that the company assumed the obligations of 25 the QUIP's when it was unable to do so.</p>	<p style="text-align: right;">Page 96</p> <p>1 2 A. I did not know.</p> <p>3 Q. Did you suspect prior to the 4 filing that there might be a fraudulent 5 activity?</p> <p>6 A. I did not know.</p> <p>7 Q. I didn't say whether you know, 8 did you have any suspicion?</p> <p>9 A. I did not know.</p> <p>10 Q. What do you mean by did not know?</p> <p>11 A. That I was uncertain.</p> <p>12 Q. But it was in your mind that that 13 might be the case prior to the filing in 14 bankruptcy?</p> <p>15 A. That it might be the case, yes.</p> <p>16 Q. And how much in advance of the 17 filing in bankruptcy did you begin to think 18 that that might be the case?</p> <p>19 A. I don't know.</p> <p>20 Q. Was it a week?</p> <p>21 A. I don't know.</p> <p>22 Q. But it was not at the time when 23 you first bought the QUIP's, was it?</p> <p>24 A. I don't remember.</p> <p>25 Q. How long after Northwestern</p>
<p style="text-align: right;">Page 95</p> <p>1 2 Q. And when did you come to the 3 determination that the company had engaged 4 in the fraud that you just described?</p> <p>5 A. I don't mean to be picky or 6 anything, what does determination mean?</p> <p>7 When did I think or when did I -- I mean, 8 did I determine?</p> <p>9 Q. You can answer the question in 10 any way that you would like.</p> <p>11 MS. STEINGART: Well, if you 12 don't understand the question, then 13 you don't have to answer it, so can 14 you indicate that you don't understand 15 it. If you understand it, you can 16 answer it.</p> <p>17 A. Rework it, if you would.</p> <p>18 Q. When did you learn that 19 Northwestern Corporation was in bankruptcy?</p> <p>20 A. I believe the day it filed.</p> <p>21 Q. Prior to the day that it filed, 22 had you come to a determination, did you 23 think that a fraud had been committed of 24 the type that you described a few minutes 25 ago?</p>	<p style="text-align: right;">Page 97</p> <p>1 2 declared bankruptcy did your uncertainty 3 change to something more on the order of 4 the certainty that a fraud of the type you 5 described was committed?</p> <p>6 MS. STEINGART: Objection as to 7 form.</p> <p>8 A. In a month or two after the 9 filing of the bankruptcy.</p> <p>10 Q. And what led you to that 11 conclusion?</p> <p>12 A. I hired Fried Frank to review the 13 situation.</p> <p>14 MS. STEINGART: Other than 15 consult with counsel, I think that's 16 all he is permitted to testified to.</p> <p>17 THE WITNESS: I consulted with 18 counsel.</p> <p>19 MS. STEINGART: And thereafter 20 he is instructed on the basis of 21 privilege not to answer.</p> <p>22 MR. PIZZURRO: Well, the line 23 of questions we have right now is 24 going to investment decisions and the 25 reasons behind that that the witness</p>

<p style="text-align: right;">Page 114</p> <p>1 office here in New York. 2 Q. And was Katten Muchin 3 representing you at the time? 4 A. No. 5 Q. Were they representing 6 Mr. Ashner? 7 A. No. 8 Q. Why were you and Mr. Ashner in 9 the offices of Katten Muchin? 10 A. We're directors of the company. 11 Q. Did you have any discussion with 12 Mr. Ashner at that time regarding the claim 13 that had been brought by Magten with 14 respect to the claims against Northwestern? 15 A. No. 16 Q. Did Mr. Ashner ask you how the 17 case was going? 18 A. He might have, I can't remember. 19 Q. Do you know whether Mr. Ashner 20 was aware that there was a lawsuit being 21 brought by Magten against Northwestern with 22 respect to the QUIP's? 23 A. I believe that he was. 24 Q. And how did you know that?</p>	<p style="text-align: right;">Page 116</p> <p>1 03 per QUIP was \$9.25. 2 MS. STEINGART: I object. It 3 hasn't been established that this was 4 the first, though it may very well be. 5 Q. I'm sorry, it was reflected as a 6 purchase of QUIP's at this time, was \$9.25 7 per QUIP, is that correct? 8 A. That is correct. 9 Q. And by June of 2006, a little 10 more than three years later, you were 11 willing to pay without negotiating, without 12 question, without further discussion, \$15, 13 is that correct? 14 MS. STEINGART: I object as to 15 form. 16 A. Correct. 17 Q. What caused you to be willing to 18 pay \$15 per QUIP in June of 06 when you 19 were only willing to pay \$9.25 per QUIP in 20 late April of 03? 21 MS. STEINGART: Object as to 22 form. That's not what the record 23 shows. 24 A. The \$9.25 which I paid was what</p>
<p style="text-align: right;">Page 115</p> <p>1 A. I believe that I told him that. 2 Q. When did you tell him that? 3 A. I don't recall. 4 Q. What did you tell him? 5 A. I told him that we had a lawsuit. 6 Q. What else did you tell him? 7 A. That's all I recall. 8 Q. Did you tell him your belief as 9 to the merits of the lawsuit? 10 A. I don't recall. 11 Q. Did you tell him anything about 12 what your lawyers had told you about the 13 merits of the lawsuit? 14 A. I don't recall. 15 Q. Did you negotiate at all with 16 Mr. Ashner over the price of the QUIP's? 17 A. No. 18 Q. Who made the offer? 19 A. He made the offer. 20 Q. And you accepted it? 21 A. I accepted it. 22 Q. If I recall correctly, from 23 what's been marked as Exhibit 3, the 24 initial purchase price back in late April,</p>	<p style="text-align: right;">Page 117</p> <p>1 the market offered on that date. 2 Q. Do you know whether Mr. Ashner 3 was aware of what you had paid for the 4 QUIP's back in April of 03? 5 A. I'm not aware of that, no. 6 Q. Was there any documentation that 7 was created in connection with the sale of 8 the QUIP's from Mr. Ashner to you for \$15 9 in June of 06? 10 A. A trade ticket. 11 Q. Anything else? 12 A. Not that I recall. 13 Q. Were there brokers involved? 14 A. Yes. 15 Q. Who were the brokers? 16 A. Morgan Stanley. 17 Q. Was \$15 the market price for the 18 QUIP's in June of 06? 19 MS. STEINGART: Objection as to 20 form. 21 A. I don't know. 22 Q. But am I correct, sir, that this 23 was, regardless of whether there was a 24 market price, this was an independently</p>

<p style="text-align: right;">Page 134</p> <p>1 2 QUIP's and the QUIP's litigation?</p> <p>3 A. I cannot.</p> <p>4 Q. Can you give us your best</p> <p>5 recollection of the sum and substance of</p> <p>6 any of the conversations that you had with</p> <p>7 Mr. Bakal concerning the QUIP's and the</p> <p>8 QUIP's lawsuit?</p> <p>9 MS. STEINGART: And that's</p> <p>10 other than the ones he's already</p> <p>11 testified about, the more recent ones.</p> <p>12 MR. PIZZURRO: Correct.</p> <p>13 A. Other than -- the only vague</p> <p>14 recollection that I have here is that after</p> <p>15 the settlement was denied -- the settlement</p> <p>16 was denied, and that we were back to square</p> <p>17 one.</p> <p>18 Q. Is your recollection that in that</p> <p>19 conversation, and I understand it may be</p> <p>20 difficult to differentiate between or among</p> <p>21 different conversations on the same subject</p> <p>22 matter over a period of time, but is it</p> <p>23 your recollection that in that conversation</p> <p>24 Mr. Bakal would have known about the</p> <p>25 proposed settlement?</p>	<p style="text-align: right;">Page 136</p> <p>1 2 A. Russell.</p> <p>3 Q. Is she still a client?</p> <p>4 A. Yes.</p> <p>5 Q. Does your account hold QUIP's?</p> <p>6 A. Yes, it does.</p> <p>7 Q. Did you ever offer to purchase</p> <p>8 the Magten for yourself or any entity</p> <p>9 controlled by you to purchase QUIP's held</p> <p>10 in the accounts of your other clients?</p> <p>11 A. No.</p> <p>12 Q. Did you cause Magten to invest in</p> <p>13 QUIP's for the account of Ms. Russell</p> <p>14 subsequent to the time that Northwestern</p> <p>15 filed for Chapter 11 in September of 03?</p> <p>16 A. I can't recall.</p> <p>17 Q. Can you recall whether you caused</p> <p>18 an investment to be made for the account of</p> <p>19 Mr. Bakal?</p> <p>20 A. I can't recall.</p> <p>21 Q. Prior to the purchase of the 20</p> <p>22 thousand QUIP's from Mr. Ashner that we</p> <p>23 discussed earlier in June of 06 --</p> <p>24 A. May I correct the record here? I</p> <p>25 believe that I have been corrected by my</p>
<p style="text-align: right;">Page 135</p> <p>1 2 A. To the best of my knowledge, he</p> <p>3 did not know about the proposed settlement.</p> <p>4 Q. Do you have a recollection as</p> <p>5 best you can as to what Mr. Bakal's</p> <p>6 response was to your informing him that the</p> <p>7 settlement had broken down?</p> <p>8 A. I can't recall.</p> <p>9 Q. Okay, can you recall the sum and</p> <p>10 substance of any other conversation or</p> <p>11 conversations you may have had with</p> <p>12 Mr. Bakal other than that one to which you</p> <p>13 just testified and the ones to which you</p> <p>14 earlier testified concerning the QUIP's</p> <p>15 lawsuit?</p> <p>16 A. Not that I can recall.</p> <p>17 Q. Any other clients that you</p> <p>18 discussed this lawsuit with?</p> <p>19 A. No.</p> <p>20 Q. Is Mr. Bakal still a client?</p> <p>21 A. He is.</p> <p>22 Q. Does his account still hold</p> <p>23 QUIP's?</p> <p>24 A. It does.</p> <p>25 Q. Is Ms. --</p>	<p style="text-align: right;">Page 137</p> <p>1 2 counsel. We presented -- we have given you</p> <p>3 the trade tickets on that transaction,</p> <p>4 presented those to whoever, and I believe</p> <p>5 it says May rather than June of 06, and I</p> <p>6 just want to get that correction there. I</p> <p>7 think that's correct. I just want -- I</p> <p>8 don't want anybody to go crazy because the</p> <p>9 May June thing.</p> <p>10 Q. It takes a lot more than that to</p> <p>11 make me crazy.</p> <p>12 A. In this matter, anything sets</p> <p>13 people off, pretty much.</p> <p>14 Q. Prior to the transaction of the</p> <p>15 20 thousand QUIP's of Mr. Ashner in the</p> <p>16 late spring of 2006, when was the most</p> <p>17 recent purchase by Magten of QUIP's?</p> <p>18 A. I can't recall.</p> <p>19 Q. Do you recall as you sit here</p> <p>20 today whether there were any purchases of</p> <p>21 QUIP's between let's say the end of 2004</p> <p>22 and June of 2006?</p> <p>23 A. I just don't know. I've been</p> <p>24 here for --</p> <p>25 MS. STEINGART: If you know,</p>